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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Revision of the Commission's Rules to)

Ensure Compatibility with Enhanced 911)

Emergency Calling Systems)

CC Docket No. 94-102

DA 01-1623

To: Chief, Wireless Telecommunications Bureau

REPLY COMMENTS OF DOBSON COMMUNICATIONS CORPORATION

Dobson Communications Corporation ("Dobson"), on behalf of its subsidiaries and affiliates, hereby submits these reply comments in the instant proceeding in support of those parties advocating that the Commission retain a requirement that PSAPs take significant, substantive efforts as a prerequisite to triggering carriers' Phase II obligations.¹ In particular, the Wireless Telecommunications Bureau ("Bureau") has sought further comment on whether a PSAP should be required to meet specific criteria to prove readiness in order for a request for E911 to be deemed "valid."² For the reasons discussed herein, if the Commission amends the rules, Dobson supports those commenters presenting criteria that demonstrate the PSAP's *current* ability to utilize Phase II services.

¹ See *Wireless Telecommunications Bureau Seeks Further Comment on the Commission's Rules Concerning Public Safety Answering Point Requests for Phase II Enhanced E911*, CC Docket No. 94-102, Public Notice, DA 01-1623 (rel. July 10, 2001) ("Notice").

Dobson submitted reply comments in response to the Bureau's original Public Notice in this proceeding, and hereby, incorporates those reply comments by reference. See Reply Comments of Dobson Communications Corporation, CC Docket 94-102 (May 3, 2001).

² See *City of Richardson, Texas, Petition for Clarification and/or Declaratory Ruling*, CC Docket No. 94-102, (April 4, 2001) ("Petition").

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I. THE COMMISSION'S RULES MUST PROVIDE SMALL AND MID-SIZED CARRIERS CERTAINTY AS TO THEIR REGULATORY OBLIGATIONS AND ALLOW CARRIERS TO ALLOCATE RESOURCES TO PSAPS CAPABLE OF UTILIZING PHASE II SERVICES

Dobson is a publicly traded mid-sized wireless telecommunications carrier serving primarily rural and suburban markets throughout the country. Dobson has long been committed to providing reliable wireless services to all users of its systems and meeting its E911 regulatory obligations. As a mid-sized rural carrier, Dobson faces special challenges in its provision of E911 services, which the company believes allows it to provide a unique perspective in these proceedings.

One of the challenges smaller carriers face includes the deployment of Phase II services within its finite capital resources. Indeed, in order to remain competitive with national carriers offering and advertising low national and regional rates within their markets, small and mid-sized rural carriers encounter market pressures to deploy E911 services without easily passing through the costs to their relatively smaller subscriber bases.³ The Commission's rules must account for carriers like Dobson serving smaller population densities and ensure that they may prioritize the allocation of their E911 resources by serving those PSAPs which are truly capable of utilizing the services when they become available and rely upon the certainty of their regulatory obligations.⁴

³ See Comments of E.N.M.R. Telephone Cooperative, Inc. New Mexico RSA 6-II Partnership, New Mexico RSA 4 East Limited Partnership, and Texas RSA 3 Limited Partnership ("E.N.M.R.") at 2-3.

⁴ Dobson previously discussed the importance of regulatory certainty for smaller carriers in its reply comments filed in this proceeding on May 3, 2001. See Reply Comments of Dobson Communications Corporation, CC Docket 94-102, at 3-4 (May 3, 2001).

It is for this reason that Dobson strongly opposes the Richardson, Texas proposal and supports those commenters emphasizing the significance of the burden facing smaller and rural carriers providing E911 services.⁵ The current rule provides the appropriate certainty for carriers, is clear on its face, and does not hinder the deployment of Phase II services, contrary to Richardson's petition.⁶ As a result, the Bureau should confirm that the E911 rules require that a PSAP must be capable of utilizing Phase II as a condition of submitting a "valid" request to a carrier and deny Richardson's petition.⁷ Thus, no changes to Section 20.18(j) of the rules are necessary.

II. IN THE ALTERNATIVE, THE COMMISSION SHOULD REQUIRE THE PSAP TO MEET SPECIFIED CONDITIONS INDICATING READINESS TO UTILIZE PHASE II INFORMATION

As stated, Dobson agrees with those commenters that assert the current rules clearly require a PSAP *to be* capable of utilizing Phase II services in order to make a

⁵ See Comments of Rural Cellular Association; Comments of National Telephone Cooperative Association; Comments of E.N.M.R. In this regard, commenting parties raise significant issues as to whether the Bureau's Initial Regulatory Flexibility Analysis in the Notice is deficient and fails to recognize the impact an amendment to Section of 20.18(j) of the Commission's current rules would have upon small carriers. See Comments of Rural Cellular Association at 5-6; Comments of National Telephone Cooperative Association at 4.

⁶ Thus, the Bureau's conclusion that "the rule as written may be capable of more than one interpretation" is erroneous.

⁷ In addition, since the procedures for amending or revising the substantive content of the rules of a federal administrative agency are explicitly mandated by the Administrative Procedures Act and codified in the rules, Dobson also concurs with those commenters asserting that the proposed revisions must be set forth in a notice and comment rulemaking by the full Commission and that the Bureau lacks the proper delegated authority to propose substantive revisions or amendments to the Commission's rules. See 5 U.S.C. § 553(b)-(c); 47 C.F.R. § 0.331(d); Comments of Rural Cellular Association at 4-5; Comments of Cingular at 7-9.

“valid” request.⁸ Nevertheless, in the event that the rules are amended, Dobson supports those commenters presenting objective criteria indicating current readiness. In particular, Dobson agrees that a PSAP must indicate that it has the necessary funding to utilize the Phase II services.⁹ Dobson also believes, however, that this condition should require that the PSAP have funds immediately available – *i.e.* that the respective legislative body has completed the necessary appropriations process. Cash on the barrel – not the promise of potential funding – is essential. In providing Phase I services, Dobson has especially grown to appreciate the complications -- and unforeseeable delays -- associated with coordinating the efforts and technical capabilities of carriers, vendors, and PSAPs. Indeed, Dobson is sympathetic to the unique legislative and administrative delays PSAPs may face when attempting to cover the costs of necessary software and equipment upgrades. Accordingly, in order to minimize the potential for uncertainty resulting from such delays, Dobson believes any certification agreement should include a statement that the PSAP has funds immediately available to bear the costs for the necessary upgrades.

Notwithstanding the objections discussed above, Dobson believes the PSAP readiness conditions presented by the comments of Cellular Telecommunications & Internet Association and Sprint PCS are generally reasonable,¹⁰ with the exception (with respect to CTIA’s second criteria) that a PSAP request should only be treated as “valid” under the rules, if the PSAP’s CPE is certified as *presently* capable of utilizing the longitude, latitude, and confidence level data. In the event CTIA’s model certification or

⁸ See Comments of Cingular at 5-7; Comments of E.N.M.R. at 2-3; Comments of Rural Cellular Association at 2-4.

⁹ See Comments of Cellular Telecommunications and Internet Association (“CTIA”) at 2-5; Comments of Sprint PCS at 2-5.

¹⁰ See Comments of CTIA at 2-5, Attachment 1, and Attachment 2.

something like it is adopted, the rules should make clear that if the PSAP does not complete the CPE upgrade within the six-month period, the carrier's obligation to deliver Phase II data to the PSAP is held in abeyance until after such time as the PSAP upgrade is complete and the PSAP and carrier have conducted testing and taken any other necessary measures. Also, the PSAP should certify that it has taken any measures required under state and local law necessary to enable it to participate in Phase II service provision. In short, if the Commission concludes that the adoption of criteria is appropriate, it should require the fulfillment of conditions that will ensure PSAPs' readiness to utilize Phase II services to the greatest extent possible.

III. CONCLUSION

For the foregoing reasons, the Commission should retain the current rule, or, in the alternative and as discussed herein, adopt objective criteria indicating a PSAP's readiness with adequate certainty.

Respectfully submitted,

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August 1, 2001

CERTIFICATE OF SERVICE

I, Anne Marie Pierce, hereby certify that on this 1st day of August 2001, I served a copy of the foregoing Comments of Dobson Communications Corporation by hand delivery to the following persons:

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